ACEC New York

American Council of Engineering Companies of New York

OPPOSE COST-BENEFIT STUDY

A.2022 (Bronson)/S.383 (Robach)

The American Council of Engineering Companies of New York (ACEC New York), an organization representing over 280 engineering and related firms totaling more than 20,000 employees in New York State, opposes bill number **A.2022(Bronson) and S.383 (Robach)** as it will significantly increase government costs and delay infrastructure project delivery, both of which will cause job losses in these related projects.

The bill requires public agencies to review contracts before awarding them to a private contractor. There is no identified procedure to perform this cost-benefit study and with state agencies already stretched thin, they will be required to hire more people just to perform this unnecessary task. Further, given that past studies to compare consultant costs with in-house costs took in years to complete, it isn't possible to complete a fair and accurate comparison within 30 days. Additionally, the wording of the legislation does not require that the study be provided by an objective outside firm – the very people in government who would do the analysis could be the same State employees who benefit from keeping the work in house. Because of the conflict of interest built into the bill, it would be nearly impossible to get an unbiased review. While the sponsor sites a 15 year old study performed by KPMG that was not done for the purpose of comparing costs, the most recent independent work performed by Polytechnic Institute of New York University just a few years ago shows clearly that in-house costs are at least 15% more than using private professionally licensed engineers and other design professionals.

The study performed by Polytechnic University of NYU objectively analyzed and compared the cost of having public sector design work performed in house with contracting out the same work to private companies. The findings were based on NYSDOT data, and showed that the state could save up to 20% by utilizing the talent and expertise of the private sector. That being said, restricting state agencies from using consultants, in reality, will cost the state more when all costs are taken into account. Further, the state does not audit their own overhead within each department or section of a department so referencing that cost is an attempt to capture something that doesn't currently exist and would cost millions of dollars to collect.

With our resources stretched thin and our infrastructure in need of billions of dollars beyond what we currently spend, wasting taxpayer money and time will only exacerbate this problem. The added staff time and further review, currently unbudgeted, will add unnecessary oversight to agencies that already have procedures to determine which projects are best performed by which entities. As Governor Cuomo wrote when he vetoed a similar bill "the State already analyzes and weighs the benefit of consulting services to the State. The State Finance Law already requires that agencies establish and document the need for services and ensure that the cost is reasonable."

Additionally, the collateral damage caused to small firms, including women and minority owned firms will be substantial. Most of these firms work as subcontractors to prime designers and with more delays; their cash flow will be hurt putting their businesses in jeopardy.

The bill memo associated with this piece of legislation claims that there is no cost to the state to perform these analyses. This is simply not true. The requirement that a cost-benefit analysis be conducted for every contract over $750,000 will take significant staff resources. The additional time and money expended will negatively impact not only the contract under review but will take resources away from other projects that will be neglected while this analysis is being performed. At a time when we are seeing a reduction in private sector jobs and declining tax revenues, creating more expenses, making agencies less efficient, delaying projects, and potentially moving more efficient private sector jobs to higher cost public sector jobs and their legacy costs, is poor public policy.